

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 4

#### REGISTRATION OF BUILDINGS ETC

##### *Introduction*

1 Part 3 of the Marriage Act 1949 is amended in accordance with this Schedule.

##### **Commencement Information**

- I1** Sch. 1 para. 1 in force at 31.10.2013 for specified purposes by S.I. 2013/2789, art. 2(a)  
**I2** Sch. 1 para. 1 in force at 13.3.2014 in so far as not already in force by S.I. 2014/93, art. 3(g)

##### *Registration of buildings*

2 After section 43 insert—

##### **“43A Registration of buildings: marriage of same sex couples**

- (1) A building that has been certified as required by law as a place of religious worship may be registered under this section for the solemnization of marriages of same sex couples.
- (2) Any application for registration of a building under this section is to be made—
  - (a) by a proprietor or trustee of the building;
  - (b) to the superintendent registrar of the registration district in which the building is situated.
- (3) An application for registration of a building under this section must be accompanied by—
  - (a) a certificate, given by the applicant and dated not earlier than one month before the making of the application, that the persons who are the relevant governing authority in relation to the building have given written consent to marriages of same sex couples as mentioned in section 26A(3),
  - (b) a copy of that consent, and
  - (c) if the building is not already registered under section 41, a certificate of use for religious worship.
- (4) The superintendent registrar must send to the Registrar General—
  - (a) the certificate or certificates, and
  - (b) the copy of the consent,which accompany an application under this section.

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- (5) The Registrar General must then register the building.
- (6) A building may be registered for the solemnization of marriages under this section whether it is a separate building or forms part of another building.
- (7) In this section, in relation to an application under this section, “certificate of use for religious worship” means a certificate given by at least twenty householders and dated not earlier than one month before the making of the application, stating that they—
  - (a) use the building as their usual place of public religious worship, and
  - (b) wish the building to be registered under this section.

### **43B Buildings registered under section 43A: appointment of authorised persons**

- (1) For the purpose of enabling marriages to be solemnized in a building registered under section 43A without the presence of a registrar, the trustees or governing body of that building may authorise a person to be present at the solemnization of marriages in that building.
- (2) Where a person is so authorised in respect of any building registered under section 43A, the trustees or governing body of that building must certify the name and address of the person so authorised to—
  - (a) the Registrar General, and
  - (b) the superintendent registrar of the registration district in which the building is situated.
- (3) The power conferred by this section may only be exercised after the end of the relevant one year period (and, if that period has ended before the date of the registration under section 43A, the power may accordingly be exercised immediately).
- (4) The relevant one year period is the period of one year beginning with the date of the registration of the building under section 43A (the “new registration”).
- (5) But if—
  - (a) there is any earlier registration of the building under section 41 which is still in force at the date of the new registration, or
  - (b) there has been any earlier qualifying registration of a previous building,
 the relevant one year period is the period of one year beginning with the date of that registration (or the earlier of those dates).
- (6) For that purpose there is a qualifying registration of a previous building if—
  - (a) the congregation on whose behalf the new registration is made previously used another building for the purpose of public religious worship,
  - (b) that building was registered under section 41 or 43A, and
  - (c) that registration was cancelled not more than one month before the date of the new registration.
- (7) A reference in this section to the solemnization of marriage is a reference to the solemnization of marriage of a same sex couple.

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- (8) Nothing in this section is to be taken to relate or have any reference to marriages solemnized according to the usages of the Society of Friends or of persons professing the Jewish religion.

#### **43C Cancellation of registration under section 43A**

- (1) The registration of a building under section 43A may be cancelled under this section.
- (2) Any application under this section is to be made—
- (a) by a proprietor or trustee of the building;
  - (b) to the superintendent registrar of the registration district in which the building is situated.
- (3) The superintendent registrar must forward any application under this section to the Registrar General; and the Registrar General must then cancel the registration of the building.
- (4) This section is subject (in particular) to sections 44A to 44C (registration of shared buildings for marriage of same sex couples) and regulations made under any of those sections.

#### **43D Regulations about sections 41 and 43 and 43A to 43C**

- (1) The Secretary of State may by statutory instrument make regulations about the procedures to be followed and the fees payable—
- (a) on registration applications;
  - (b) in relation to section 43B authorisations;
  - (c) on cancellation applications.
- (2) The Secretary of State may by statutory instrument make—
- (a) regulations modifying the application of section 41 or 43 in relation to buildings that are already registered under section 43A;
  - (b) regulations about cases where a person makes applications under sections 41 and 43A, or gives or certifies authorisations under sections 43 and 43B, in respect of the same building at the same time (including provision modifying any requirement imposed by any of those sections or by regulations under subsection (1) of this section).
- (3) A statutory instrument containing regulations made under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section—
- “cancellation application” means an application under section 43C for the cancellation of the registration of a building;
- “registration application” means an application under section 43A for the registration of a building;
- “section 43B authorisation” means the authorisation of a person under section 43B to be present at the solemnization of marriages in a building registered under section 43A.”

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#### Commencement Information

- I3** Sch. 1 para. 2 in force at 31.10.2013 for specified purposes by S.I. 2013/2789, art. 2(a)  
**I4** Sch. 1 para. 2 in force at 13.3.2014 in so far as not already in force by S.I. 2014/93, art. 3(g)

#### *Shared buildings*

3 After section 44 insert—

*“Registration of shared buildings for marriage of same sex couples*

#### **44A Building subject to Sharing of Church Buildings Act 1969: registration**

- (1) This section applies to a registration application relating to a building that is—
  - (a) subject to a sharing agreement, or
  - (b) used as mentioned in section 6(4) of the 1969 Act.
- (2) The registration application must be made in accordance with section 43A (as read with section 26A(3)).
- (3) But those provisions have effect subject to the following provisions of this section.
- (4) Each of the sharing churches is a relevant religious organisation for the purposes of section 26A(3).
- (5) A consent given under section 26A(3) (a “consent to marriages of same sex couples”) by the relevant governing authority of any of the sharing churches is therefore sufficient for the registration application to be made in compliance with section 26A(3) (and references to the consent of the relevant governing authority in section 43A are to be read accordingly).
- (6) But the registration application may not be made unless the relevant governing authorities of each of the sharing churches (other than those which have given consents to marriages of same sex couples) have given a separate written consent to the use of the shared building for the solemnization of marriages of same sex couples (a “consent to use”).
- (7) The registration application must also be accompanied by—
  - (a) a certificate, given by the applicant and dated not more than one month before the making of the application, that the relevant governing authorities mentioned in subsection (6) have given written consents to use, and
  - (b) copies of those consents.
- (8) The superintendent registrar must also send to the Registrar General—
  - (a) the certificate, and
  - (b) the copies of the consents,
 which accompany the application in accordance with subsection (7).
- (9) The Registrar General must not register the shared building unless and until subsection (8) and the requirements of section 43A have been complied with.

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- (10) The Secretary of State may by statutory instrument make regulations containing such provision supplementing this section as the Secretary of State thinks appropriate.

#### **44B Building subject to Sharing of Church Buildings Act 1969: cancellation**

- (1) This section applies to a cancellation application relating to a building that is—
- (a) subject to a sharing agreement, or
  - (b) used as mentioned in section 6(4) of the 1969 Act.
- (2) The cancellation application must be made in accordance with section 43C.
- (3) But section 43C has effect subject to the following provisions of this section.
- (4) The cancellation application may be made either—
- (a) by a proprietor or trustee of the building, or
  - (b) by the relevant governing authority of any of the sharing churches.
- (5) For that purpose, in relation to a sharing church, “relevant governing authority” means the person or persons recognised by the members of the sharing church as competent for the purpose of making an application under section 43C in the circumstances to which this section applies.
- (6) In a case where the cancellation application is made by a relevant governing authority in accordance with subsection (4)(b)—
- (a) the application must be accompanied by a certificate, given by persons making the application, that they are the relevant governing authority of one of the sharing churches; and
  - (b) the superintendent registrar must (in addition to forwarding the application in accordance with section 43C(3)) send a copy of that certificate to the Registrar General.
- (7) The Secretary of State may by statutory instrument make regulations containing such provision supplementing this section as the Secretary of State thinks appropriate.

#### **44C Other shared places of worship: registration and cancellation**

- (1) The Secretary of State may by statutory instrument make regulations about—
- (a) registration applications relating to other shared places of worship;
  - (b) cancellation applications relating to other shared places of worship;
  - (c) the sharing churches' use of other shared places of worship (in cases where those places are registered under section 43A) for the solemnization of marriages of same sex couples.
- (2) The provision that may be made under subsection (1)(a) or (b) includes provision about the procedures to be followed on registration applications or cancellation applications.
- (3) In this section “other shared place of worship” means a shared building—

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- (a) which has been certified as required by law as a place of religious worship, but
- (b) to which sections 44A and 44B do not apply because the building is neither—
  - (i) subject to a sharing agreement, nor
  - (ii) used as mentioned in section 6(4) of the 1969 Act.

#### **44D Sections 44A to 44C: supplementary provision**

- (1) In sections 44A to 44C (and this section)—
  - “1969 Act” means the Sharing of Church Buildings Act 1969;
  - “cancellation application” means an application under section 43C for the cancellation of the registration of a building;
  - “registration application” means an application under section 43A for the registration of a building;
  - “sharing agreement” has the meaning given in section 1 of the 1969 Act;
  - “shared building” means a building that is—
    - (a) subject to a sharing agreement,
    - (b) used as mentioned in section 6(4) of the 1969 Act, or
    - (c) otherwise shared;
  - “shared building provisions” means sections 44A to 44C;
  - “sharing churches” means—
    - (a) in the case of a building subject to a sharing agreement, the churches that have made the agreement;
    - (b) in the case of a building used as mentioned in section 6(4) of the 1969 Act, the churches that so use it;
    - (c) in the case of any other shared building, the religious organisations (whether Christian or of another faith) that share it.
- (2) Regulations under any of the shared building provisions may provide for a registration application relating to a shared building to be made otherwise than by the proprietor or trustee of the building (whether or not the proprietor or trustee retains power to make such an application).
- (3) Regulations under any of the shared building provisions may make provision about any of these cases—
  - (a) the case where a building registered under section 43A becomes a shared building;
  - (b) the case where a building registered under section 43A ceases to be a shared building;
  - (c) the case where a building is registered under section 43A and there is a change in the churches which are sharing churches;
 and the provision that may be made about such a case includes provision for the modification, suspension or cancellation of the registration under section 43A.
- (4) Regulations under any of the shared building provisions may make provision about the use of shared buildings for the solemnization of—

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- (a) marriages of same sex couples according to the usages of the Society of Friends (commonly called Quakers), and
  - (b) marriages of same sex couples professing the Jewish religion according to the usages of the Jews.
- (5) The provision that may be made about the use of shared buildings for the solemnization of such marriages includes—
- (a) provision about the giving of consent by the relevant governing authority for the purposes of a registration application or cancellation application (including provision for identifying the relevant governing authority);
  - (b) provision corresponding to, or applying, any provision of section 43B (with or without modifications).
- (6) Regulations under any of the shared buildings provisions may amend any England and Wales legislation.
- (7) Subsections (2) to (6) do not limit the power under any of the shared building provisions to make regulations.
- (8) A statutory instrument containing regulations under any of the shared building provisions may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.”.

#### Commencement Information

- I5** Sch. 1 para. 3 in force at 31.10.2013 for specified purposes by S.I. 2013/2789, art. 2(a)
- I6** Sch. 1 para. 3 in force at 13.3.2014 in so far as not already in force by S.I. 2014/93, art. 3(g)

## SCHEDULE 2

Section 10

### EXTRA-TERRITORIAL MATTERS

#### PART 1

##### ENGLISH AND WELSH MARRIAGES OF SAME SEX COUPLES: TREATMENT IN SCOTLAND AND NORTHERN IRELAND

##### *Scotland*

- 1 (1) The Secretary of State may, by order, provide that, under the law of Scotland, a marriage of a same sex couple under the law of England and Wales is to be treated as a civil partnership formed under the law of England and Wales (and that, accordingly, the spouses are to be treated as civil partners).
- (2) The Secretary of State may by order—
- (a) provide for the treatment of a marriage as a civil partnership (by virtue of an order under sub-paragraph (1)) to have effect subject to provision made by the order;

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- (b) specify cases in which a marriage is not to be treated as a civil partnership by virtue of an order under sub-paragraph (1).
- (3) The power conferred by sub-paragraph (1) may only be exercised if marriage of same sex couples is not lawful under the law of Scotland.
- (4) If marriage of same sex couples becomes lawful under the law of Scotland, that does not—
  - (a) affect the validity of any order made under this paragraph; or
  - (b) prevent the revocation of any such order (with or without transitional, transitory or saving provision being made) using the powers conferred by this paragraph.

**Commencement Information**

**I7** [Sch. 2 para. 1](#) in force at 31.10.2013 by [S.I. 2013/2789](#), [art. 3\(d\)](#)

*Northern Ireland*

- 2 (1) Under the law of Northern Ireland, a marriage of a same sex couple under the law of England and Wales is to be treated as a civil partnership formed under the law of England and Wales (and accordingly, the spouses are to be treated as civil partners).
- (2) The Secretary of State may by order—
  - (a) provide for the treatment of a marriage as a civil partnership (by virtue of sub-paragraph (1)) to have effect subject to provision made by the order;
  - (b) specify cases in which a marriage is not to be treated as a civil partnership by virtue of sub-paragraph (1).

**Commencement Information**

**I8** [Sch. 2 para. 2\(1\)](#) in force at 13.3.2014 by [S.I. 2014/93](#), [art. 3\(h\)](#)

**I9** [Sch. 2 para. 2\(2\)](#) in force at 31.10.2013 by [S.I. 2013/2789](#), [art. 3\(d\)](#)

*Contrary provision*

- 3 (1) The treatment of a marriage as a civil partnership by virtue of an order under paragraph 1(1), or by virtue of paragraph 2, is subject to—
  - (a) any order made under paragraph 1(2) or 2(2), and
  - (b) any other contrary provision made by—
    - (i) the other provisions of this Act,
    - (ii) any other subordinate legislation made under this Act, and
    - (iii) any new UK legislation,
 including any such contrary provision contained in amendments of existing UK legislation.
- (2) In this paragraph—
 

“existing UK legislation” means—



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- (a) in the case of UK legislation that is primary legislation, legislation passed before the end of the Session in which this Act is passed (excluding this Act), or
  - (b) in the case of UK legislation that is subordinate legislation, legislation made on or before the day on which this Act is passed (excluding legislation made under this Act);
- “new UK legislation” means—
- (a) in the case of UK legislation that is primary legislation, legislation passed after the end of the Session in which this Act is passed, or
  - (b) in the case of UK legislation that is subordinate legislation, legislation made after the day on which this Act is passed.

#### Commencement Information

**I10** Sch. 2 para. 3 in force at 13.3.2014 by S.I. 2014/93, art. 3(h)

## PART 2

### MARRIAGE TREATED AS CIVIL PARTNERSHIP: DISSOLUTION, ANNULMENT OR SEPARATION

#### *Order made in relation to civil partnership: validity in relation to marriage*

- 4 (1) This paragraph applies in a case where a marriage of a same sex couple under the law of England and Wales is—
- (a) by virtue of an order under paragraph 1, treated under the law of Scotland as a civil partnership, or
  - (b) by virtue of paragraph 2, treated under the law of Northern Ireland as a civil partnership.
- (2) If—
- (a) a final order is made in relation to the deemed civil partnership, and
  - (b) the validity of that order is recognised throughout the United Kingdom,
- that order has, throughout the United Kingdom, the same effect in relation to the actual marriage that it has in relation to the deemed civil partnership.
- (3) If—
- (a) a separation order is made in relation to the relevant couple as parties to the deemed civil partnership, and
  - (b) the validity of that order is recognised throughout the United Kingdom,
- that order has, throughout the United Kingdom, the same effect in relation to the couple as parties to the actual marriage that it has in relation to them as parties to the deemed civil partnership (and has effect in relation to any other persons accordingly).
- (4) In this paragraph—
- “actual marriage” means the marriage of the same sex couple under the law of England and Wales;
  - “deemed civil partnership” means the civil partnership which the actual marriage is treated as being;
  - “final order” means—

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- (a) the dissolution or annulment of a civil partnership obtained from a court of civil jurisdiction in any part of the United Kingdom;
  - (b) an overseas dissolution or annulment;
- “relevant couple” means the same sex couple who are parties to the actual marriage;
- “separation order” means—
- (a) a legal separation of the parties to a civil partnership obtained from a court of civil jurisdiction in any part of the United Kingdom;
  - (b) an overseas legal separation of the parties to a civil partnership.

#### Commencement Information

III Sch. 2 para. 4 in force at 13.3.2014 by S.I. 2014/93, art. 3(h)

PROSPECTIVE

### PART 3

ENGLAND AND WALES: “OVERSEAS RELATIONSHIPS” IN CIVIL PARTNERSHIP ACT 2004

*Marriage not an “overseas relationship” in England and Wales*

- 5 (1) The Civil Partnership Act 2004 is amended as follows.
- (2) Section 213 (specified relationships): after subsection (1) insert—
- “(1A) But, for the purposes of the application of this Act to England and Wales, marriage is not an overseas relationship.”.

## SCHEDULE 3

Section 11

### INTERPRETATION OF LEGISLATION

#### PART 1

##### EXISTING ENGLAND AND WALES LEGISLATION

*Interpretation of existing England and Wales legislation*

- 1 (1) In existing England and Wales legislation—
- (a) a reference to marriage is to be read as including a reference to marriage of a same sex couple;
  - (b) a reference to a married couple is to be read as including a reference to a married same sex couple; and
  - (c) a reference to a person who is married is to be read as including a reference to a person who is married to a person of the same sex.

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- (2) Where sub-paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a marriage that has ended, or a reference to a person whose marriage has ended) is to be read accordingly.
- (3) For the purposes of sub-paragraphs (1) and (2) it does not matter how a reference is expressed.

#### **Modifications etc. (not altering text)**

- C1** Sch. 3 paras. 1, 2 excluded by SI 2006/3432, rules 4(4), 5(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C2** Sch. 3 paras. 1-3 modified (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 2 para. 4**
- C3** Sch. 3 paras. 1-3 excluded (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 2 para. 5**
- C4** Sch. 3 para. 1 excluded by SI 1992/129, Sch. 2 Scheme, Sch. 1 Pt. 3 rules 1(4), 2(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C5** Sch. 3 para. 1 excluded by SI 2012/687, rules 2A(4), 2B(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C6** Sch. 3 para. 1 excluded by SI 1997/1612, regs. 42B(4), 42C(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C7** Sch. 3 paras. 1-3 excluded by SI 1987/257, reg. J1(7) (as inserted (13.3.2014) by [The Police Pensions \(Amendment\) Regulations 2014 \(S.I. 2014/79\)](#), regs. 1(1), **5(c)**)
- C8** Sch. 3 para. 1 excluded by SI 2010/990, regs. 2A(4), 2B(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)

#### **Commencement Information**

- I12** Sch. 3 para. 1 in force at 13.3.2014 by [S.I. 2014/93](#), **art. 3(i)**

#### *Interpretation of legislation about couples living together as if married*

- 2 (1) In existing England and Wales legislation—
  - (a) a reference to persons who are not married but are living together as a married couple is to be read as including a reference to a same sex couple who are not married but are living together as a married couple;
  - (b) a reference to a person who is living with another person as if they were married is to be read as including a reference to a person who is living with another person of the same sex as if they were married.
- (2) Where sub-paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as a married couple) is to be read accordingly.
- (3) For the purposes of sub-paragraphs (1) and (2) it does not matter how a reference is expressed.

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#### Modifications etc. (not altering text)

- C1** Sch. 3 paras. 1, 2 excluded by SI 2006/3432, rules 4(4), 5(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C2** Sch. 3 paras. 1-3 modified (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 2 para. 4**
- C3** Sch. 3 paras. 1-3 excluded (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 2 para. 5**
- C7** Sch. 3 paras. 1-3 excluded by SI 1987/257, reg. J1(7) (as inserted (13.3.2014) by [The Police Pensions \(Amendment\) Regulations 2014 \(S.I. 2014/79\)](#), regs. 1(1), **5(c)**)
- C9** Sch. 3 para. 2 excluded by SI 1997/1612, regs. 42B(4), 42C(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C10** Sch. 3 para. 2 excluded by SI 2012/687, rules 2A(4), 2B(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C11** Sch. 3 para. 2 excluded by SI 2010/990, regs. 2A(4), 2B(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C12** Sch. 3 para. 2 excluded by SI 1992/129, Sch. 2 Scheme, Sch. 1 Pt. 3 rules 1(4), 2(4) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)

#### Commencement Information

- I13** Sch. 3 para. 2 in force at 13.3.2014 by [S.I. 2014/93](#), **art. 3(i)**

- 3 (1) This paragraph applies to existing England and Wales legislation which deals differently with—
- (a) a man and a woman living together as if married, and
  - (b) two men, or two women, living together as if civil partners.
- (2) If two men, or two women, are living together as if married, that legislation applies to them in the way that it would apply to them if they were living together as civil partners.

#### Modifications etc. (not altering text)

- C2** Sch. 3 paras. 1-3 modified (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 2 para. 4**
- C3** Sch. 3 paras. 1-3 excluded (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 2 para. 5**
- C7** Sch. 3 paras. 1-3 excluded by SI 1987/257, reg. J1(7) (as inserted (13.3.2014) by [The Police Pensions \(Amendment\) Regulations 2014 \(S.I. 2014/79\)](#), regs. 1(1), **5(c)**)
- C13** Sch. 3 para. 3 modified by SI 2006/3432, rules 4(5), 5(5) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C14** Sch. 3 para. 3 modified by SI 1992/1612, regs. 42B(5), 42C(5) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- C15** Sch. 3 para. 3 modified by SI 2010/990, regs. 2A(5), 2B(5) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C16** Sch. 3 para. 3 modified by SI 2012/687, rules 2A(5), 2B(5) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)
- C17** Sch. 3 para. 3 modified by SI 1992/129, Sch. 2 Scheme, Sch. 1 Pt. 3 rules 1(5), 2(5) (as inserted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 3 para. 17**)

#### **Commencement Information**

- I14** Sch. 3 para. 3 in force at 13.3.2014 by [S.I. 2014/93](#), **art. 3(i)**

#### *General*

- 4 This Part of this Schedule does not limit section 11(1) or (2).

#### **Commencement Information**

- I15** Sch. 3 para. 4 in force at 13.3.2014 by [S.I. 2014/93](#), **art. 3(i)**

## **PART 2**

### NEW ENGLAND AND WALES LEGISLATION

- 5 (1) This paragraph applies to provision made by—
- (a) this Act and any subordinate legislation made under it, or
  - (b) new England and Wales legislation,
- including any such provision which amends existing England and Wales legislation.
- (2) The following expressions have the meanings given—
- (a) “husband” includes a man who is married to another man;
  - (b) “wife” includes a woman who is married to another woman;
  - (c) “widower” includes a man whose marriage to another man ended with the other man's death;
  - (d) “widow” includes a woman whose marriage to another woman ended with the other woman's death;
- and related expressions are to be construed accordingly.
- (3) A reference to marriage of same sex couples is a reference to—
- (a) marriage between two men, and
  - (b) marriage between two women.
- (4) A reference to a marriage of a same sex couple is a reference to—
- (a) a marriage between two men, or
  - (b) a marriage between two women.
- (5) A reference to a same sex couple who are not married but are living together as a married couple is a reference to—
- (a) two men who are not married but are living together as a married couple, or

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

(b) two women who are not married but are living together as a married couple.

(6) This Part of this Schedule does not limit section 11(1) or (2).

**Commencement Information**

**I16** Sch. 3 para. 5 in force at 13.3.2014 by S.I. 2014/93, art. 3(i)

SCHEDULE 4

Section 11

EFFECT OF EXTENSION OF MARRIAGE: FURTHER PROVISION

**PART 1**

PRIVATE LEGAL INSTRUMENTS

*Existing instruments*

- 1 (1) Section 11 does not alter the effect of any private legal instrument made before that section comes into force.
- (2) In this paragraph “private legal instrument” includes—
- (a) a will,
  - (b) an instrument (including a private Act) which settles property,
  - (c) an instrument (including a private Act) which provides for the use, disposal or devolution of property, and
  - (d) an instrument (including a private Act) which—
    - (i) establishes a body, or
    - (ii) regulates the purposes and administration of a body,
 (whether the body is incorporated or not and whether it is charitable or not); but (with the exception of the kinds of private Act mentioned above) it does not include England and Wales legislation.

**Commencement Information**

**I17** Sch. 4 para. 1 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

**PART 2**

PRESUMPTION ON BIRTH OF CHILD TO MARRIED WOMAN

*Common law presumption*

- 2 (1) Section 11 does not extend the common law presumption that a child born to a woman during her marriage is also the child of her husband.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- (2) Accordingly, where a child is born to a woman during her marriage to another woman, that presumption is of no relevance to the question of who the child's parents are.

**Commencement Information**

**I18** Sch. 4 para. 2 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

### PART 3

#### DIVORCE AND ANNULMENT OF MARRIAGE

##### *Divorce*

- 3 (1) Section 1 of the Matrimonial Causes Act 1973 (divorce on breakdown of marriage) is amended as follows.
- (2) After subsection (5) insert—
- “(6) Only conduct between the respondent and a person of the opposite sex may constitute adultery for the purposes of this section.”.

**Commencement Information**

**I19** Sch. 4 para. 3 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

##### *Annulment of marriage*

- 4 (1) Section 12 of the Matrimonial Causes Act 1973 (grounds on which a marriage is voidable) is amended as follows.
- (2) The existing provision of section 12 becomes subsection (1) of that section.
- (3) After that subsection (1) insert—
- “(2) Paragraphs (a) and (b) of subsection (1) do not apply to the marriage of a same sex couple.”.

**Commencement Information**

**I20** Sch. 4 para. 4 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

### PART 4

#### MATRIMONIAL PROCEEDINGS

##### *Amendment of the Domicile and Matrimonial Proceedings Act 1973*

- 5 The Domicile and Matrimonial Proceedings Act 1973 is amended as follows.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

#### Commencement Information

- I21** Sch. 4 para. 5 in force at 31.10.2013 for specified purposes by S.I. 2013/2789, art. 2(b)  
**I22** Sch. 4 para. 5 in force at 13.3.2014 in so far as not already in force by S.I. 2014/93, art. 3(j)(i)

- 6 (1) Section 5 (jurisdiction of High Court and county courts) is amended in accordance with this paragraph.
- (2) Subsection (1): after “entertain” insert “ any of the following proceedings in relation to a marriage of a man and a woman ”.
- (3) After subsection (5) insert—
- “(5A) Schedule A1 (jurisdiction in relation to marriage of same sex couples) has effect.”.
- (4) Subsection (6): after “Wales” insert “ (whether the proceedings are in respect of the marriage of a man and a woman or the marriage of a same sex couple) ”.

#### Commencement Information

- I23** Sch. 4 para. 6 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

- 7 Section 6 (miscellaneous amendments, transitional provision and savings), subsection (3): after “Act” (in the first place) insert “ , or by virtue of Schedule A1 to this Act, ”.

#### Commencement Information

- I24** Sch. 4 para. 7 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

- 8 Before Schedule 1 insert—
- “SCHEDULE A1 JURISDICTION IN RELATION TO MARRIAGE OF SAME SEX COUPLES

#### Introduction

- 1 This Schedule shall have effect, subject to section 6(3) and (4), with respect to the jurisdiction of the court to entertain any of the following proceedings in relation to a marriage of a same sex couple—
- (a) proceedings for divorce, judicial separation or nullity of marriage;
  - (b) proceedings for an order which ends a marriage on the ground that one of the couple is dead; and
  - (c) proceedings for a declaration of validity.

#### Divorce, judicial separation or annulment

- 2 (1) The court has jurisdiction to entertain proceedings for divorce or judicial separation if (and only if)—
- (a) the court has jurisdiction under regulations under paragraph 5,



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*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

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- (b) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5 and either of the married same sex couple is domiciled in England and Wales on the date when the proceedings are begun, or
  - (c) the following conditions are met—
    - (i) the two people concerned married each other under the law of England and Wales,
    - (ii) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5, and
    - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (2) The court has jurisdiction to entertain proceedings for nullity of marriage if (and only if)—
- (a) the court has jurisdiction under regulations under paragraph 5,
  - (b) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5 and either of the married same sex couple—
    - (i) is domiciled in England and Wales on the date when the proceedings are begun, or
    - (ii) died before that date and either was at death domiciled in England and Wales or had been habitually resident in England and Wales throughout the period of 1 year ending with the date of death, or
  - (c) the following conditions are met—
    - (i) the two people concerned married each other under the law of England and Wales,
    - (ii) no court has, or is recognised as having, jurisdiction under regulations under paragraph 5, and
    - (iii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (3) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of sub-paragraph (1) or (2) (or this sub-paragraph), the court also has jurisdiction to entertain other proceedings, in respect of the same marriage, for divorce, judicial separation or nullity of marriage, even though that jurisdiction would not be exercisable under subsection (1) or (2).

### **Presumption of death order**

- 3 The court has jurisdiction to entertain proceedings for an order which ends a marriage on the ground that one of the couple is dead on an application made by the other of the couple (“the applicant”) if (and only if)—
- (a) at the time the application is made, the High Court does not have jurisdiction to entertain an application by the applicant under section 1 of the Presumption of Death Act 2013 for a declaration that the applicant's spouse is presumed to be dead, and
  - (b) the two people concerned married each other under the law of England and Wales and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

### **Declaration of validity**

- 4 The court has jurisdiction to entertain an application for a declaration of validity if (and only if)—
- (a) either of the parties to the marriage to which the application relates—
    - (i) is domiciled in England and Wales on the date of the application,
    - (ii) has been habitually resident in England and Wales throughout the period of 1 year ending with that date, or
    - (iii) died before that date and either was at death domiciled in England and Wales or had been habitually resident in England and Wales throughout the period of 1 year ending with the date of death, or
  - (b) the two people concerned married each other under the law of England and Wales and it appears to the court to be in the interests of justice to assume jurisdiction in the case.

### **Power to make provision corresponding to EC Regulation 2201/2003**

- 5 (1) The Lord Chancellor may by regulations make provision—
- (a) as to the jurisdiction of courts in England and Wales in proceedings for the divorce of, or annulment of the marriage of, a same sex couple or for judicial separation of a married same sex couple where one of the couple—
    - (i) is or has been habitually resident in a member State,
    - (ii) is a national of a member State, or
    - (iii) is domiciled in a part of the United Kingdom or the Republic of Ireland, and
  - (b) as to the recognition in England and Wales of any judgment of a court of another member State which orders the divorce of, or annulment of a marriage of, a same sex couple or the judicial separation of a married same sex couple.
- (2) The regulations may in particular make provision corresponding to that made by Council Regulation (EC) No 2201/2003 of 27th November 2003 in relation to jurisdiction and the recognition and enforcement of judgments in matrimonial matters.
- (3) The regulations may provide that for the purposes of the regulations “member State” means—
- (a) all member States with the exception of such member States as are specified in the regulations, or
  - (b) such member States as are specified in the regulations.
- (4) The regulations may make provision under sub-paragraph (1)(b) which applies even if the date of the divorce, annulment or judicial separation is earlier than the date on which this paragraph comes into force.
- (5) Regulations under this paragraph are to be made by statutory instrument.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- (6) A statutory instrument containing regulations under this paragraph may not be made unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by resolution of, each House of Parliament.

### Interpretation

- 6 In this Schedule “declaration of validity” means—
- (a) a declaration as to the validity of a marriage,
  - (b) a declaration as to the subsistence of a marriage, or
  - (c) a declaration as to the validity of a divorce, annulment or judicial separation obtained outside England and Wales in respect of a marriage.”.

#### Commencement Information

- I25** Sch. 4 para. 8 in force at 31.10.2013 for specified purposes by S.I. 2013/2789, art. 2(b)  
**I26** Sch. 4 para. 8 in force at 13.3.2014 in so far as not already in force by S.I. 2014/93, art. 3(j)(i)

- 9 Schedule 1 (staying of matrimonial proceedings in England and Wales: interpretation), paragraph 2: after “kinds” insert “ (whether relating to a marriage of a man and a woman or a marriage of a same sex couple) ”.

#### Commencement Information

- I27** Sch. 4 para. 9 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

#### *Transitory provision until commencement of Presumption of Death Act 2013*

- 10 (1) This paragraph applies if section 1 of the Presumption of Death Act 2013 has not come into force at the time when the amendments of the Domicile and Matrimonial Proceedings Act 1973 made by the other provisions of this Part of this Schedule come into force.
- (2) Schedule A1 to the Domicile and Matrimonial Proceedings Act 1973 has effect with the following modifications until section 1 of the Presumption of Death Act 2013 comes into force.
- (3) Paragraph 1 has effect with the following provision substituted for paragraph (b)—
- “(b) proceedings for death to be presumed and a marriage to be dissolved in pursuance of section 19 of the Matrimonial Causes Act 1973; and”.
- (4) Schedule A1 has effect with the following provision substituted for paragraph 3—
- “3 The court has jurisdiction to entertain proceedings for death to be presumed and a marriage to be dissolved if (and only if)—
- (a) the applicant is domiciled in England and Wales on the date when the proceedings are begun,
  - (b) the applicant was habitually resident in England and Wales throughout the period of 1 year ending with that date, or

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- (c) the two people concerned married each other under the law of England and Wales and it appears to the court to be in the interests of justice to assume jurisdiction in the case.”.

**Commencement Information**

**I28** Sch. 4 para. 10 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(i)

**PART 5**

STATE PENSIONS

*Category B retirement pension for married person*

- 11 (1) Section 48A of the 1992 Act (Category B retirement pension for married person) does not confer a right to a Category B retirement pension on a person by reason of the person being married to a person of the same sex who was born before 6th April 1950.
- (2) But that does not prevent section 48A from conferring a right to such a pension on a woman by reason of her marriage to another woman (“the spouse”) if—
- (a) the spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.
- (3) In section 48A of the 1992 Act—
- (a) in subsection (2ZA)—
- (i) in paragraph (a) for “married man who” substitute “ man married to a woman and the spouse ”;
- (ii) after paragraph (b) insert—
- “(c) in a case where the spouse is a woman born before 6th April 1945 who is married to a woman and subsection (2ZB) applies, the conditions specified in Schedule 3, Part 1, paragraph 5;
- (d) in a case where the spouse is a woman born on or after 6th April 1945 but before 6th April 1950 who is married to a woman and subsection (2ZB) applies, the condition specified in Schedule 3, Part 1, paragraph 5A.”;
- (b) after subsection (2ZA) insert—
- “(2ZB) This subsection applies where—
- (a) the spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.”
- (4) In paragraph 5A of Schedule 3 to the 1992 Act, at the end of sub-paragraph (1)(b) insert “ or in a case of the kind mentioned in subsection (2ZA)(d) of that section ”.

*Status:* Point in time view as at 03/06/2014.

*Changes to legislation:* There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)

- (5) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits Act 1992.

**Commencement Information**

**I29** Sch. 4 para. 11 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(ii)

*Category B retirement pension for widows and widowers*

- 12 (1) Section 48B of the 1992 Act (Category B retirement pension for widows and widowers) does not confer a right to a Category B retirement pension on a woman who attained pensionable age before 6th April 2010 by reason of her marriage to another woman.
- (2) But that does not prevent section 48B from conferring a right to such a pension on a woman by reason of her marriage to another woman (“the spouse”) if—
- (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued.
- (3) In section 48B of the 1992 Act—
- (a) in subsection (1ZA), in paragraph (a)(ii) after “date” (in the second place where it appears) insert “ and the case does not fall within paragraph (c) ”;
  - (b) in subsection (1ZA), after paragraph (b) insert—
    - “(c) in a case where—
      - (i) the spouse died on or after 6th April 2010,
      - (ii) the spouse was born on or after 6th April 1945 but before 6th April 1950,
      - (iii) the spouse was, at the time of her death, a woman and the pensioner in question is a woman, and
      - (iv) subsection (1ZB) applies,the condition specified in Schedule 3, Part 1, paragraph 5A.”;
  - (c) after subsection (1ZA) insert—
    - “(1ZB) This subsection applies where—
      - (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
      - (b) the marriage subsisted before the time when that certificate was issued.”
- (4) In paragraph 5A of Schedule 3 to the 1992 Act, at the end of sub-paragraph (1)(c) insert “ or in a case of the kind mentioned in subsection (1ZA)(c) of that section ”.
- (5) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits Act 1992.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I30** Sch. 4 para. 12 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(ii)

*Category B retirement pension for widowers*

- 13 (1) Section 51 of the 1992 Act (Category B retirement pension for widowers) is amended in accordance with sub-paragraphs (2) to (4).
- (2) After subsection (1) insert—
- “(1ZA) A party to a marriage of a same sex couple shall be entitled to a Category B retirement pension if—
- (a) the other party has died and they were married to each other at the time of that death,
- (b) they were both over pensionable age at the time of that death, and
- (c) before that death the deceased party satisfied the contribution conditions for a Category A retirement pension in Schedule 3, Part 1, paragraph 5.”.
- (3) Subsection (2): after “wife” insert “, husband ”.
- (4) Subsection (3): after “2002” insert “, surviving party to a same sex marriage ”.
- (5) Section 51(1ZA) of the 1992 Act does not confer a right to a Category B retirement pension on a person if the person attains pensionable age on or after 6th April 2010.
- (6) Section 51(1ZA) of the 1992 Act does not confer a right to a Category B retirement pension on a woman by reason of her marriage to another woman (“the spouse”) if—
- (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.
- (7) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits Act 1992.

**Commencement Information**

**I31** Sch. 4 para. 13 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(ii)

*Graduated retirement benefit*

- 14 (1) Section 62 of the Social Security Contributions and Benefits Act 1992 (graduated retirement benefit) is amended as follows.
- (2) Subsection (1): after paragraph (ac) insert—
- “(ad) for extending section 37 of that Act (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to—
- (i) men and their late husbands, and
- (ii) women and their late wives,

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

and for that section (except subsection (5)) so to apply as it applies to women and their late husbands;

(ae) for extending section 37 of that Act (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to—

(i) men and their late husbands, and

(ii) women and their late wives,

who attained pensionable age before 6th April 2010 and for that section (except subsection (5)) so to apply as it applies to men and their late wives;”.

(3) After subsection (2) insert—

“(3) In relevant gender change cases, women and their late wives are to be treated for the purposes of sections 36 and 37 of the National Insurance Act 1965 in the same way as women and their late husbands.

(4) For that purpose “relevant gender change case”, in relation to a woman (“the pensioner”) and her late wife, means a case where—

(a) the late wife was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

(b) the marriage of the pensioner and her late wife subsisted before the time when the certificate was issued.”

#### Commencement Information

**I32** Sch. 4 para. 14 in force at 31.10.2013 for specified purposes by S.I. 2013/2789, art. 2(b)

**I33** Sch. 4 para. 14 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(ii)

VALID FROM 10/12/2014

#### *Adult dependency increases*

15 (1) In a case where a full gender recognition certificate is issued to a person under the Gender Recognition Act 2004—

(a) section 83 of the 1992 Act (pension increase (wife)) does not cease to apply by virtue of the change of gender; and

(b) in the continued application of section 83 in such a case, references to a pension payable to a man, or references to his wife, are to be construed accordingly.

(2) In a case where a full gender recognition certificate is issued to a person under the Gender Recognition Act 2004—

(a) section 84 of the 1992 Act (pension increase (husband)) does not cease to apply by virtue of the change of gender; and

(b) in the continued application of section 84 in such a case, references to a pension payable to a woman, or references to her husband, are to be construed accordingly.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- (3) In this paragraph “the 1992 Act” means the Social Security Contributions and Benefits Act 1992.

VALID FROM 10/12/2014

*Converted civil partnerships*

- 16 (1) This paragraph applies where a civil partnership is converted into a marriage under section 9.
- (2) For the purposes of section 48A of, and paragraph 5A(1)(b) of Schedule 3 to, the Social Security Contributions and Benefits Act 1992—
- (a) the civil partnership is to be treated as having subsisted during the period that begins with the day when it was formed and ends with the day before the conversion day, and
- (b) the marriage is to be treated as subsisting only from the conversion day.
- (3) In this paragraph “conversion day” means the day when the civil partnership is converted into a marriage.

## PART 6

### OCCUPATIONAL PENSIONS AND SURVIVOR BENEFITS

*Benefits dependent on marriage of same sex couples*

- 17 (1) Paragraph 18 of Schedule 9 to the Equality Act 2010 (work: exceptions) is amended as follows.
- (2) Sub-paragraph (1): for “married” substitute “ within sub-paragraph (1A) ”.
- (3) After sub-paragraph (1) insert—
- “(1A) A person is within this sub-paragraph if the person is—
- (a) a man who is married to a woman, or
- (b) a woman who is married to a man, or
- (c) married to a person of the same sex in a relevant gender change case.
- (1B) The reference in sub-paragraph (1A)(c) to a relevant gender change case is a reference to a case where—
- (a) the married couple were of the opposite sex at the time of their marriage, and
- (b) a full gender recognition certificate has been issued to one of the couple under the Gender Recognition Act 2004.”.

#### **Commencement Information**

**I34** Sch. 4 para. 17 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(iii)



*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

### *Pension Schemes Act 1993*

18 The Pension Schemes Act 1993 is amended in accordance with paragraphs 19 to 26.

#### **Commencement Information**

**I35** Sch. 4 para. 18 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(iv)

19 In section 8(2) (meaning of certain terms), in the definition of “guaranteed minimum pension”, after “widower's” insert “, surviving same sex spouse's”.

#### **Commencement Information**

**I36** Sch. 4 para. 19 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(v)

20 (1) Section 17 (minimum pensions for widows and widowers) is amended as follows.

(2) Subsection (2)—

(a) paragraph (a): after “man” insert “, or a woman in a relevant gender change case,”;

(b) after paragraph (c) insert—

“(d) if the earner is a man who has a guaranteed minimum under that section, the weekly rate of the widower's pension will not be less than the surviving same sex spouse's guaranteed minimum;

(e) if the earner is a woman (other than in a relevant gender change case) who has a guaranteed minimum under that section, the weekly rate of the widow's pension will not be less than the surviving same sex spouse's guaranteed minimum.”.

(3) Subsection (4): after “partner's” insert “or surviving same sex spouse's”.

(4) Subsection (5): at the beginning insert “ In the case of a woman who is the widow of a man, ”.

(5) Subsection (6)—

(a) at the beginning insert “ In any other case, ”;

(b) after “widower's” insert “, widow's”.

(6) After subsection (9) insert—

“(10) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—

(a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

(b) the marriage of the earner and her widow (that ends with the earner's death) subsisted before the time when the certificate was issued.

(11) This section is subject to regulations under section 38A.”.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

#### **Commencement Information**

**I37** Sch. 4 para. 20 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(vi)

- 21 (1) Section 24D (survivors' benefits) is amended as follows.
- (2) Subsection (2): after “earner” insert “ is a man married to a woman or a woman married to a woman in a relevant gender change case, and the earner ”.
- (3) Subsection (3)—
- (a) after “earner” insert “ is a married woman (other than in a relevant gender change case), a man married to a man, or a civil partner, and the earner ”;
- (b) after “widower” insert “ , widow ”.
- (4) After subsection (3) insert—
- “(4) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—
- (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage of the earner and her widow (that ends with the earner's death) subsisted before the time when the certificate was issued.
- (5) This section is subject to regulations under section 38A.”.

#### **Commencement Information**

**I38** Sch. 4 para. 21 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(vi)

- 22 (1) Section 37 (alteration of rules of contracted-out schemes) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person who is so entitled by virtue of a qualifying relationship only in such cases as may be prescribed.
- (5) For that purpose a person is entitled to receive benefits by virtue of a qualifying relationship if the person is so entitled by virtue of being—
- (a) the widower of a female earner;
- (b) the widower of a male earner;
- (c) the widow of a female earner, except where it is a relevant gender change case; or
- (d) the survivor of a civil partnership with an earner.
- (6) In relation to a widow of a female earner, the reference in subsection (5)(c) to a relevant gender change case is a reference to a case where—
- (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage of the earner and her widow (that ends with the earner's death) subsisted before the time when the certificate was issued.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

(7) This section is subject to regulations under section 38A.”.

#### Commencement Information

**I39** Sch. 4 para. 22 in force at 13.3.2014 for specified purposes by S.I. 2014/93, art. 3(j)(vi)

VALID FROM 30/06/2014

23 Before section 39 insert—

#### Regulations about relevant gender change cases

“38A(1) The Secretary of State may, by regulations, make provision for—

- (a) section 17,
- (b) section 24D, or
- (c) section 37,

to have its special effect in relevant gender change cases only if conditions prescribed in the regulations are met.

(2) Regulations under subsection (1) may, in particular, prescribe conditions that relate to the provision of information by—

- (a) one or both of the members of married same sex couples, or
- (b) the survivors of such couples.

(3) The Secretary of State may, by regulations, make further provision about cases where (because of regulations under subsection (1))—

- (a) section 17,
- (b) section 24D, or
- (c) section 37,

does not have its special effect in relevant gender change cases.

(4) Regulations under subsection (3) may, in particular, provide for the section in question to have its ordinary effect in relevant gender change cases.

(5) Regulations under subsection (1) or (3) may, in particular, modify or disapply any enactment that concerns information relating to—

- (a) the gender or sex of a person, or
- (b) the change of gender or sex of a person,

including any enactment that concerns requests for, or disclosure of, such information.

(6) In this section, in relation to section 17, 24D or 37—

- (a) “relevant gender change case” has the same meaning as in that section;
- (b) “special effect” means the effect which the section has (if regulations under subsection (1) of this section are ignored) in relation to relevant gender change cases, insofar as that effect is different from the section's ordinary effect;

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

(c) “ordinary effect” means the effect which the section has in relation to same sex married couples in cases that are not relevant gender change cases.”.

24 In section 47 (further provisions about effect of entitlement to guaranteed minimum pension on payment of social security benefits), in subsection (1) after “widower” insert “, surviving same sex spouse”.

**Commencement Information**

**I40** Sch. 4 para. 24 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(vii)

25 In section 84 (basis of revaluation), in subsection (5), after “widower” insert “, surviving same sex spouse”.

**Commencement Information**

**I41** Sch. 4 para. 25 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(vii)

26 In Schedule 3 (methods of revaluing accrued pension benefits), in paragraph 1(1E) (b), after “widower” insert “, surviving same sex spouse”.

**Commencement Information**

**I42** Sch. 4 para. 26 in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(vii)

## PART 7

### PROVISIONS WHICH LIMIT EQUIVALENCE OF ALL MARRIAGES ETC

#### *Contrary provision*

- 27 (1) The relevant enactments are subject to—
- (a) the preceding provisions of this Schedule, and
  - (b) any order under sub-paragraph (3).
- (2) The relevant enactments are subject to any other contrary provision made by—
- (a) the other provisions of this Act,
  - (b) any other subordinate legislation made under this Act, and
  - (c) any new England and Wales legislation,
- including any such contrary provision contained in amendments of existing England and Wales legislation.
- (3) The Secretary of State may by order—
- (a) provide that a relevant enactment has effect subject to provision made by the order, or
  - (b) specify cases in which a relevant enactment does not apply.
- (4) In this paragraph “relevant enactment” means—

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- (a) section 11(1) and (2) and Schedule 3 (equivalence of all marriages in law), or
- (b) section 9(6)(b) (marriage arising from conversion of civil partnership treated as having subsisted from formation of civil partnership).

**Commencement Information**

**I43** Sch. 4 para. 27(1)(2) in force at 13.3.2014 by S.I. 2014/93, art. 3(j)(viii)

**I44** Sch. 4 para. 27(3)(4) in force at 31.10.2013 by S.I. 2013/2789, art. 3(e)

VALID FROM 30/06/2014

SCHEDULE 5

Section 12

CHANGE OF GENDER OF MARRIED PERSONS OR CIVIL PARTNERS

SCHEDULE 6

Section 13

MARRIAGE OVERSEAS

**PART 1**

CONSULAR MARRIAGE UNDER UK LAW

*Provision for consular marriage*

- 1 (1) Her Majesty may by Order in Council make provision for two people to marry each other—
- (a) in prescribed countries or territories outside the United Kingdom, and
  - (b) in the presence of a registration officer,
- in cases where the officer is satisfied that the conditions in sub-paragraph (2) are met.
- (2) The conditions are that—
- (a) at least one of the people proposing to marry is a United Kingdom national,
  - (b) the people proposing to marry would have been eligible to marry each other in such part of the United Kingdom as is determined in accordance with the Order,
  - (c) the authorities of the country or territory in which it is proposed that they marry will not object to the marriage, and
  - (d) insufficient facilities exist for them to enter into a marriage under the law of that country or territory.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I45** Sch. 6 para. 1 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(i)

**I46** Sch. 6 para. 1 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

*Refusal by registration officer*

- 2 (1) A registration officer is not required to allow two people to marry each other if the registration officer's opinion is that a marriage between them would be inconsistent with international law or the comity of nations.
- (2) An Order in Council under this Part of this Schedule may make provision for appeals against a refusal, in reliance on sub-paragraph (1), to allow two people to marry each other.

**Commencement Information**

**I47** Sch. 6 para. 2 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(i)

**I48** Sch. 6 para. 2 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

*No religious service*

- 3 No religious service is to be used at the solemnization of a consular marriage.

**Commencement Information**

**I49** Sch. 6 para. 3 in force at 3.6.2014 by S.I. 2014/93, art. 5(c)

*Treatment of marriage as taking place in part of UK for certain purposes*

- 4 An Order in Council under this Part of this Schedule may provide that two people who marry in a consular marriage are to be treated for prescribed purposes as if they had married in the relevant part of the United Kingdom.

**Commencement Information**

**I50** Sch. 6 para. 4 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(ii)

**I51** Sch. 6 para. 4 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

*Validity of consular marriage*

- 5 A consular marriage is valid in law as if the marriage had been solemnized in the relevant part of the United Kingdom with a due observance of all forms required by the law of the relevant part of the United Kingdom.

**Commencement Information**

**I52** Sch. 6 para. 5 in force at 3.6.2014 by S.I. 2014/93, art. 5(c)

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

### *Interpretation*

6 In this Part of this Schedule—

“consular marriage” means a marriage solemnized in accordance with the provisions of this Part of this Schedule and any Order in Council made under it;

“registration officer” means—

- (a) a consular officer in the service of Her Majesty's government in the United Kingdom, or
- (b) in the case of registration in a country or territory in which Her Majesty's government in the United Kingdom has for the time being no consular representative, a person authorised by the Secretary of State in respect of the solemnization of marriages in that country or territory;

“relevant part of the United Kingdom”, in relation to a consular marriage, means the part of the United Kingdom determined in accordance with paragraph 1(2)(b) for the purposes of the marriage.

#### **Commencement Information**

**I53** Sch. 6 para. 6 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iii)

**I54** Sch. 6 para. 6 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

## **PART 2**

### MARRIAGE UNDER FOREIGN LAW: CERTIFICATES OF NO IMPEDIMENT

#### *Provision for certificates of no impediment*

- 7 (1) Her Majesty may by Order in Council make provision for the issue of certificates of no impediment to—
- (a) United Kingdom nationals, and
  - (b) such other persons as may be prescribed,
- who wish to marry in prescribed countries or territories outside the United Kingdom.
- (2) A certificate of no impediment is a certificate that no legal impediment to the recipient entering into the marriage has been shown to the person issuing the certificate to exist.

#### **Commencement Information**

**I55** Sch. 6 para. 7 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iii)

**I56** Sch. 6 para. 7 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

### PART 3

#### MARRIAGE OF FORCES PERSONNEL UNDER UK LAW

##### *Provision for marriage of armed forces personnel*

- 8 (1) Her Majesty may by Order in Council make provision for—
- (a) a man and a woman to marry each other in any country or territory outside the United Kingdom, and
  - (b) for a same sex couple to marry in prescribed countries or territories outside the United Kingdom,
- in the presence of an authorised person, in cases where the authorised person is satisfied that the conditions in sub-paragraph (2) are met.
- (2) The conditions are that—
- (a) at least one of the people proposing to marry is—
    - (i) a member of Her Majesty's forces serving in the country or territory in which it is proposed that they marry,
    - (ii) a relevant civilian who is employed in that country or territory, or
    - (iii) a child of a person falling within sub-paragraph (i) or (ii) whose home is with that person in that country or territory, and
  - (b) the people proposing to marry would have been eligible to marry each other in such part of the United Kingdom as is determined in accordance with the Order.
- (3) In a case where one person (“P”) treats, or has treated, another person (“C”), as a child of the family in relation to—
- (a) a marriage to which P is or was a party, or
  - (b) a civil partnership to which P is or was a party,
- C is to be regarded for the purposes of sub-paragraph (2)(a)(iii) as the child of P.

#### **Commencement Information**

**I57** Sch. 6 para. 8 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iii)

**I58** Sch. 6 para. 8 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

##### *Religious services at forces marriages of same sex couples*

- 9 (1) An Order in Council under this Part of this Schedule may make provision about the solemnization of forces marriages of same sex couples according to religious rites and usages.
- (2) An Order in Council may, in particular, make provision—
- (a) prohibiting the solemnization of such marriages according to particular religious rites or usages; or
  - (b) permitting the solemnization of such marriages according to particular religious rites or usages.
- (3) Sub-paragraph (2)(b) is subject to sub-paragraphs (4) and (5).



*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- (4) An Order in Council may not make provision allowing the solemnization of forces marriages of same sex couples according to the rites of the Church of England or Church in Wales.
- (5) If an Order in Council makes provision allowing the solemnization of forces marriages of same sex couples according to particular religious rites or usages (other than those of the Church of England or Church in Wales), the Order in Council must also make provision to secure that such a marriage may not be solemnized according to those rites or usages unless the relevant governing authority has given written consent to marriages of same sex couples.
- (6) The person or persons who are the relevant governing body for that purpose are to be determined in accordance with provision made by an Order in Council under this Part of this Schedule.
- (7) This paragraph does not affect the provision that may be made about the solemnization of forces marriages of opposite sex couples according to religious rites and usages.
- (8) If section 8 applies, the Lord Chancellor may, by order, make such relevant amending provision as the Lord Chancellor considers appropriate to allow for the solemnization of forces marriages of same sex couples according to the rites of the Church in Wales.
- (9) For that purpose “relevant amending provision” means—
  - (a) provision amending sub-paragraphs (4) and (5) by omitting the words “or Church in Wales”;
  - (b) provision amending any Order in Council made under this Part of this Schedule;
  - (c) provision amending any other UK legislation (including legislation contained in this Part of this Schedule).
- (10) In making an order under sub-paragraph (8), the Lord Chancellor must have regard to the terms of the resolution of the Governing Body of the Church in Wales referred to in section 8(1).

**Commencement Information**

**I59** Sch. 6 para. 9 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iii)

**I60** Sch. 6 para. 9 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

*Treatment of marriage as taking place in part of UK for certain purposes*

- 10 An Order in Council under this Part of this Schedule may provide that two people who marry in a forces marriage are to be treated for prescribed purposes as if they had married in the relevant part of the United Kingdom.

**Commencement Information**

**I61** Sch. 6 para. 10 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iii)

**I62** Sch. 6 para. 10 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

### *Validity of forces marriage*

- 11 A forces marriage is valid in law as if the marriage had been solemnized in the relevant part of the United Kingdom with a due observance of all forms required by the law of the relevant part of the United Kingdom.

#### **Commencement Information**

**I63** Sch. 6 para. 11 in force at 3.6.2014 by S.I. 2014/93, art. 5(c)

### *Interpretation*

- 12 (1) In this Part of this Schedule—
- (a) a reference to a country or territory includes a reference to the waters of a country or territory;
  - (b) a reference to Her Majesty's forces serving in a country or territory includes a reference to such forces serving in a ship in the waters of a country or territory;
  - (c) a reference to a relevant civilian employed in a country or territory includes a reference to such a civilian employed in a ship in the waters of a country or territory.
- (2) In this Part of this Schedule—
- “authorised person”, in relation to a marriage in a country or territory outside the United Kingdom, means—
- (a) a chaplain serving in any of Her Majesty's forces in that country or territory, or
  - (b) a person authorised by the commanding officer of any of Her Majesty's forces in that country or territory to conduct that marriage or marriages generally;
- “commanding officer” has the same meaning as in the Armed Forces Act 2006;
- “forces marriage” means a marriage solemnized in accordance with the provisions of this Part of this Schedule and any Order in Council made under it;
- “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;
- “relevant civilian” means a civilian subject to service discipline (within the meaning of the Armed Forces Act 2006) who is of a prescribed description;
- “relevant part of the United Kingdom”, in relation to a forces marriage, means the part of the United Kingdom determined in accordance with paragraph 8(2)(b) for the purposes of the marriage.

#### **Commencement Information**

**I64** Sch. 6 para. 12 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iv)

**I65** Sch. 6 para. 12 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

## PART 4

### GENERAL PROVISIONS

#### *Parliamentary scrutiny*

- 13 (1) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this Schedule unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by resolution of, each House of Parliament.
- (2) In the case of an Order in Council containing provision which would (if contained in an Act of the Scottish Parliament) be within the legislative competence of that Parliament, no recommendation is to be made to Her Majesty under this paragraph unless the Scottish Ministers have been consulted.

#### **Commencement Information**

- I66** Sch. 6 para. 13 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iv)  
**I67** Sch. 6 para. 13 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

#### *Particular kinds of provision*

- 14 (1) An Order in Council under this Schedule may—
- (a) make different provision for different purposes,
  - (b) make transitional, transitory or saving provision, or
  - (c) make consequential provision.
- (2) An Order in Council under this Schedule may make provision corresponding to, or applying (with or without modifications), any UK legislation.
- (3) An Order in Council under this Schedule may amend, repeal or revoke UK legislation.

#### **Commencement Information**

- I68** Sch. 6 para. 14 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iv)  
**I69** Sch. 6 para. 14 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

#### *Interpretation*

- 15 In this Schedule—
- “prescribed” means prescribed by an Order in Council made under this Schedule;
  - “United Kingdom national” means a person who is—
    - (a) a British citizen, a British overseas territories citizen, a British Overseas citizen or a British National (Overseas),
    - (b) a British subject under the British Nationality Act 1981, or
    - (c) a British protected person, within the meaning of that Act.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I70** Sch. 6 para. 15 in force at 21.1.2014 for specified purposes by S.I. 2014/93, art. 2(b)(iv)

**I71** Sch. 6 para. 15 in force at 3.6.2014 in so far as not already in force by S.I. 2014/93, art. 5(c)

SCHEDULE 7

Section 17

TRANSITIONAL AND CONSEQUENTIAL PROVISION ETC

**PART 1**

TRANSITIONAL AND TRANSITORY PROVISION

*Approval of premises for civil weddings*

- 1 (1) The approved premises regulations, and any related guidance, that are in force immediately before commencement have effect after commencement in relation to marriage in pursuance of section 26(1)(bb) of the Marriage Act 1949 as amended by this Act.
- (2) Any approval of premises under those regulations that is in force immediately before commencement has effect after commencement in relation to marriage in pursuance of section 26(1)(bb) of the Marriage Act 1949 as amended by this Act.
- (3) Any application for approval of premises made under approved premises regulations before commencement continues to have effect after commencement as an application for the approval of the premises for the purposes of marriage in pursuance of section 26(1)(bb) of the Marriage Act 1949 as amended by this Act.
- (4) In this paragraph—
- “approved premises regulations” means regulations under section 46A of the Marriage Act 1949;
- “commencement” means the time when section 1 comes into force;
- “related guidance” means any guidance relating to premises approved under approved premises regulations.

**Commencement Information**

**I72** Sch. 7 para. 1 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

**PART 2**

MINOR AND CONSEQUENTIAL AMENDMENTS

*Marriage Act 1949 (c. 76)*

- 2 The Marriage Act 1949 is amended as follows.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I73** Sch. 7 para. 2 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 3 Section 3 (marriages of persons under 18), subsection (1): after “widow” insert “or a surviving civil partner”.

**Commencement Information**

**I74** Sch. 7 para. 3 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 4 (1) Section 25 (void marriages) is amended as follows.
- (2) At the beginning insert—
- “(1) A marriage shall be void in any of the following cases.”.
- (3) The existing wording of section 25 becomes subsection (2) of that section; and, at the beginning of that subsection, for “If any persons” substitute—
- “(2) Case A is where any persons”.
- (4) For the words after paragraph (d) substitute—
- “(3) Case B is where any persons knowingly and wilfully consent to or acquiesce in the solemnization of a Church of England marriage between them by a person who is not in Holy Orders.
- (4) Case C is where any persons of the same sex consent to or acquiesce in the solemnization of a Church of England marriage between them.
- (5) In subsections (3) and (4) “Church of England marriage” means a marriage according to the rites of the Church of England.”.

**Commencement Information**

**I75** Sch. 7 para. 4 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 5 Section 27A (additional information required in certain cases), subsection (1): after “section 26(1)(dd)” insert “ or 26B(6) ”.

**Commencement Information**

**I76** Sch. 7 para. 5 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 6 After section 27C insert—

**“27D Additional information required for certain marriages of same sex couples**

- (1) This section applies in relation to any marriage intended to be solemnized in pursuance of section 26B(2), (4) or (6) (marriage of same sex couples: Quaker marriage, Jewish marriage, marriage of house-bound or detained person).

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- (2) The superintendent registrar to whom notice of such a marriage is given under section 27 may require the relevant governing authority to provide a copy of the consent mentioned in section 26B(2)(b), (4)(b) or (6)(d).
- (3) In this section, “relevant governing authority”, in relation to an intended marriage under section 26B(2), (4) or (6), has the same meaning as in that provision.”.

**Commencement Information**

**I77** Sch. 7 para. 6 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 7 (1) Section 28A (power to require evidence) is amended in accordance with this paragraph.
- (2) After subsection (1) insert—
  - “(1A) In the case of an intended marriage to which section 27D applies, the superintendent registrar to whom the notice of the marriage is given may require the relevant governing authority to produce evidence relating to the consent mentioned in section 26B(2)(b), (4)(b) or (6)(d).”.
- (3) Subsection (2): for “Such a requirement” substitute “ A requirement under subsection (1) or (1A) ”.

**Commencement Information**

**I78** Sch. 7 para. 7 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 8 (1) Section 41 (registration of buildings) is amended in accordance with this paragraph.
- (2) The title: at the end insert “ : **marriage of a man and a woman** ”.
- (3) After subsection (1) insert—
  - “(1A) A reference in this section to the solemnization of marriage is a reference to the solemnization of marriage of a man and a woman.”.

**Commencement Information**

**I79** Sch. 7 para. 8 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 9 (1) Section 42 (cancellation of registration and substitution of another building) is amended in accordance with this paragraph.
- (2) For the title substitute “ **Cancellation of registration under section 41: building no longer used** ”.
- (3) Subsection (1): for “registered building” substitute “ building registered under section 41 ”.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I80** Sch. 7 para. 9 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 10 (1) Section 43 (appointment of authorised persons) is amended in accordance with this paragraph.
- (2) For the title substitute “ **Buildings registered under section 41: appointment of authorised persons** ”.
- (3) Subsection (1): for “registered building” (in each place) substitute “ building registered under section 41 ”.
- (4) For the proviso to subsection (1) substitute—
- “(1A) The power conferred by this section may only be exercised after the end of the relevant one year period (and, if that period has ended before the date of the registration under section 41, the power may accordingly be exercised immediately).
- (1B) The relevant one year period is the period of one year beginning with the date of the registration of the building under section 41 (the “new registration”).
- (1C) But if—
- (a) there is any earlier registration of the building under section 43A which is still in force at the date of the new registration, or
- (b) there has been any earlier qualifying registration of a previous building,
- the relevant one year period is the period of one year beginning with the date of that registration (or the earlier of those dates).
- (1D) For that purpose there is a qualifying registration of a previous building if—
- (a) the congregation on whose behalf the new registration is made previously used another building for the purpose of public religious worship,
- (b) that building was registered under section 41 or 43A, and
- (c) that registration was cancelled not more than one month before the date of the new registration.”.
- (5) Omit subsection (2).

**Commencement Information**

**I81** Sch. 7 para. 10 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 11 Section 44 (solemnization of marriage in registered building), subsection (2)(b): for “the last foregoing section” substitute “ section 43 (in the case of the marriage of a man and a woman), or section 43B (in the case of the marriage of a same sex couple), ”.

**Commencement Information**

**I82** Sch. 7 para. 11 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

- 12 Section 45A (solemnization of certain marriages), subsection (1): after “section 26(1)(dd)” insert “ or 26B(6) ”.

**Commencement Information**

**I83** Sch. 7 para. 12 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 13 (1) Section 46 (register office marriage followed by religious ceremony) is amended in accordance with this paragraph.

(2) Subsection (1): for “marriage solemnized in the presence of a superintendent registrar” substitute “ relevant marriage ”.

(3) After subsection (1) insert—

“(1A) In this section “relevant marriage” means—

- (a) the marriage of a man and a woman solemnized in the presence of a superintendent registrar,
- (b) the marriage of a same sex couple solemnized in the presence of a superintendent registrar, and
- (c) a marriage which arises from the conversion of a civil partnership under regulations under section 9 of the Marriage (Same Sex Couples) Act 2013.

(1B) This section does not authorise the marriage service of the Church of England to be read or celebrated in the case of a relevant marriage of a same sex couple.

(1C) This section does not authorise any other marriage service to be read or celebrated in the case of a relevant marriage of a same sex couple unless the relevant governing authority has given written consent to the reading or celebration of that service in the case of such marriages.

(1D) For that purpose—

“relevant governing authority” means the person or persons recognised by the members of the relevant religious organisation as competent for the purpose of giving consent for the purposes of this section;

“relevant religious organisation” means the religious organisation whose marriage service is to be read or celebrated.”.

**Commencement Information**

**I84** Sch. 7 para. 13 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 14 Section 48 (proof of certain matters not necessary to validity of marriages), subsection (1)—

- (a) paragraph (d): omit “or”;
- (b) after paragraph (d) insert—

“(da) that, in the case of a marriage under section 26B(2), (4) or (6), the relevant governing authority had given consent as mentioned in section 26B(2)(b), (4)(b) or (6)(d);”;

- (c) at the end of paragraph (e) insert “or



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- (ea) that, in the case of a marriage under section 26A, the relevant governing authority had given consent as mentioned in section 26A(3);”.

**Commencement Information**

**I85** Sch. 7 para. 14 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

15 After section 49 insert—

**“49A Void marriages: additional provision about same sex couples**

- (1) If a same sex couple knowingly and wilfully intermarries under the provisions of this Part of this Act in the absence of the required consent, the marriage shall be void.
- (2) In this section, in relation to a marriage of a same sex couple, “required consent” means consent under—
- (a) section 26A(3), in a case where section 26A applies to the marriage (but section 44A does not apply to it);
  - (b) section 26A(3) and section 44A(6), in a case where section 26A and section 44A apply to the marriage;
  - (c) section 26B(2)(b), in a case where section 26B(1), (2) and (3) apply to the marriage;
  - (d) section 26B(4)(b), in a case where section 26B(1), (4) and (5) apply to the marriage;
  - (e) section 26B(6)(d), in a case where section 26B(1), (6) and (7) apply to the marriage.”.

**Commencement Information**

**I86** Sch. 7 para. 15 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

16 Section 53, paragraph (c): for the words from “religion” to the end substitute “religion—

- (i) where the parties to the marriage are both members of the same synagogue, the marriage shall be registered by the secretary of that synagogue; and
- (ii) where the parties to the marriage are members of different synagogues, the marriage shall be registered by the secretary of whichever of those synagogues the parties to the marriage nominate;”.

**Commencement Information**

**I87** Sch. 7 para. 16 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

17 Section 69 (licensing of chapels for marriages according to rites of Church of England), subsection (5): for “authorised persons” substitute “ persons authorised under section 43 ”.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I88** Sch. 7 para. 17 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 18 Section 70 (registration of chapels for marriages otherwise than according to rites of Church of England), subsection (1), paragraphs (a) and (b): for “registered building” substitute “ building registered under section 41 ”.

**Commencement Information**

**I89** Sch. 7 para. 18 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 19 (1) Section 75 (offences relating to solemnization of marriages) is amended in accordance with this paragraph.
- (2) Subsection (2)(bb): after “section 26(1)(dd)” insert “ or 26B(6) ”.
- (3) Subsection (3)(d): after “(dd)” insert “ or 26B(6) ”.
- (4) Subsection (5): after “seventy” insert “ or 70A ”.

**Commencement Information**

**I90** Sch. 7 para. 19 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 20 (1) Section 78 (interpretation) is amended in accordance with this paragraph.
- (2) Subsection (1)—
- (a) for the definition of “authorised person” substitute—
- ““authorised person” means—
- (a) in relation to a building registered under section 41, a person whose name and address have been certified in accordance with section 43;
- (b) in relation to a building registered under section 43A, a person whose name and address have been certified in accordance with section 43B;”;
- (b) after the definition of “ecclesiastical district” insert—
- ““England and Wales legislation” has the same meaning as in the Marriage (Same Sex Couples) Act 2013;”;
- (c) definition of “registered building”: for “Part III” substitute “ section 41 or section 43A ”.
- (3) After subsection (5) insert—
- “(6) If, for the purpose of any provision of this Act, a relevant governing authority has given written consent to marriages of same sex couples, the validity of that consent is not affected only because there is a change in the person or persons constituting that relevant governing authority.”.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I91** Sch. 7 para. 20 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(i)

- 21 (1) Schedule 4 (provisions of Act which are excluded or modified in their application to Naval, Military and Air Force chapels) is amended in accordance with this paragraph.
- (2) Part 3 (exclusion of provisions relating to marriages otherwise than according to the rites of the Church of England): after the entry relating to section 43 insert— “Sections 43A and 43C.”.
- (3) Part 4 (modification of provisions relating to marriages otherwise than according to the rites of the Church of England), after “forty-three,” insert “43B,”.

**Commencement Information**

**I92** Sch. 7 para. 21 in force at 3.6.2014 by S.I. 2014/93, art. 5(d)

*Marriage (Registrar General's Licence) Act 1970*

- 22 The Marriage (Registrar General's Licence) Act 1970 is amended as follows.

**Commencement Information**

**I93** Sch. 7 para. 22 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(ii)

- 23 Section 1 (marriages which may be solemnized by Registrar General's licence), subsection (2): after “section 26(1)(dd)” insert “or 26B(6)”.

**Commencement Information**

**I94** Sch. 7 para. 23 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(ii)

- 24 Section 2 (notice of marriage), after subsection (3) insert—
- “(4) Sections 27D and 28A(1A) and (2) of the principal Act apply (with the appropriate modifications) to a marriage intended to be solemnized in pursuance of this Act as they apply to a marriage intended to be solemnized in pursuance of 26B(2), (4) or (6) of that Act.”.

**Commencement Information**

**I95** Sch. 7 para. 24 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(ii)

- 25 After section 13 insert—

**“13A Void marriages: additional provision about same sex couples**

- (1) If a same sex couple knowingly and wilfully intermarries under the provisions of this Act in the absence of the required consent, the marriage shall be void.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

(2) In this section “required consent” means consent under section 1(3).”

**Commencement Information**

**I96** Sch. 7 para. 25 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(ii)

*Matrimonial Causes Act 1973 (c. 18)*

26 The Matrimonial Causes Act 1973 is amended as follows.

**Commencement Information**

**I97** Sch. 7 para. 26 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(ii)

27 Section 11 (grounds on which a marriage is void): omit paragraph (c).

**Commencement Information**

**I98** Sch. 7 para. 27 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(ii)

*Public Order Act 1986 (c. 64)*

28 (1) Section 29JA of the Public Order Act 1986 (protection of freedom of expression (sexual orientation)) is amended in accordance with this paragraph.

(2) The existing provision of section 29JA becomes subsection (1) of that section.

(3) After that provision insert—

“(2) In this Part, for the avoidance of doubt, any discussion or criticism of marriage which concerns the sex of the parties to marriage shall not be taken of itself to be threatening or intended to stir up hatred.”.

**Commencement Information**

**I99** Sch. 7 para. 28 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(ii)

VALID FROM 10/12/2014

*Social Security Contributions and Benefits Act 1992 (c. 4)*

29 The Social Security Contributions and Benefits Act 1992 is amended as follows.

30 Section 48 (use of former spouse's or civil partner's contributions): after subsection (4) insert—

“(5) For the purposes of this section, a civil partnership is not to be treated as having terminated by reason of its having been converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013.”.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

*Pension Schemes Act 1993 (c. 48)*

31 The Pension Schemes Act 1993 is amended as follows.

**Commencement Information**

**I100** Sch. 7 para. 31 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iii)

32 Section 99 (trustees' duties after exercise of option), subsection (3)(b): for “his widow” substitute “ his or her surviving spouse or civil partner ”.

**Commencement Information**

**I101** Sch. 7 para. 32 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iii)

*Civil Partnership Act 2004 (c. 33)*

33 The Civil Partnership Act 2004 is amended as follows.

**Commencement Information**

**I102** Sch. 7 para. 33 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iii)

VALID FROM 10/12/2014

34 Section 1 (civil partnership), subsection (3)—  
(a) after “only” insert “ (a) ”;  
(b) after “annulment” insert “, or  
(b) in the case of a civil partnership formed as mentioned in subsection (1)(a)(i) or (iv), on the conversion of the civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013.”.

35 Section 4 (parental etc consent where proposed civil partner under 18), subsection (3): after “partner” insert “ or a widower or a widow ”.

**Commencement Information**

**I103** Sch. 7 para. 35 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

36 Section 210 (registration at British consulates etc), subsection (6), paragraph (b) of the definition of “Registration officer”: after “country” (in both places) insert “ or territory ”.

**Commencement Information**

**I104** Sch. 7 para. 36 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

*Human Fertilisation and Embryology Act 2008 (c. 22)*

37 The Human Fertilisation and Embryology Act 2008 is amended as follows.

**Commencement Information**

**I105** Sch. 7 para. 37 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

38 (1) Section 35 (woman married at time of treatment) is amended in accordance with this paragraph.

(2) The title: after “**married**” insert “ **to a man** ”.

(3) Subsection (1)(a): after “marriage” insert “ with a man ”.

**Commencement Information**

**I106** Sch. 7 para. 38 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

39 Section 40 (embryo transferred after death of husband etc who did not provide sperm), subsection (1)(b): after “marriage” insert “ with a man ”.

**Commencement Information**

**I107** Sch. 7 para. 39 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

40 (1) Section 42 (woman in civil partnership at time of treatment) is amended in accordance with this paragraph.

(2) The title: after “**partnership**” insert “ **or marriage to a woman** ”.

(3) Subsection (1)—

(a) after “partnership” (in the first place) insert “ or a marriage with another woman ”;

(b) after “partnership” (in the second place) insert “ or marriage ”.

**Commencement Information**

**I108** Sch. 7 para. 40 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

41 (1) Section 46 (embryo transferred after death of civil partner or intended female parent) is amended in accordance with this paragraph.

(2) The title: after “**civil partner**” insert “ **or wife** ”.

(3) Subsection (1)—

(a) paragraph (b), after “partnership” insert “ or marriage with another woman ”;

(b) paragraphs (c), (d) and (e), after “partnership” insert “ or marriage ”;

(c) the words after paragraph (f), after “partnership” insert “ or marriage ”.

*Status: Point in time view as at 03/06/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013. (See end of Document for details)*

**Commencement Information**

**I109** Sch. 7 para. 41 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

*Equality Act 2010 (c. 15)*

42 The Equality Act 2010 is amended as follows.

**Commencement Information**

**I110** Sch. 7 para. 42 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

43 (1) Section 23 (comparison by reference to circumstances) is amended in accordance with this paragraph.

(2) Subsection (3): after “married” insert “ to a person of the opposite sex ”.

(3) After subsection (3) insert—

“(4) If the protected characteristic is sexual orientation, the fact that one person (whether or not the person referred to as B) is married to a person of the same sex while another is married to a person of the opposite sex is not a material difference between the circumstances relating to each case.”.

**Commencement Information**

**I111** Sch. 7 para. 43 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

44 Schedule 3 (services and public functions: exceptions): for the title to Part 6 substitute— “ MARRIAGE: GENDER REASSIGNMENT ”.

**Commencement Information**

**I112** Sch. 7 para. 44 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

45 Schedule 9 (work: exceptions), Part 1 (occupational requirements), paragraph 2 (religious requirements relating to sex, marriage etc, sexual orientation), subparagraph (4): after paragraph (c) insert—

“(ca) a requirement not to be married to a person of the same sex;”.

**Commencement Information**

**I113** Sch. 7 para. 45 in force at 13.3.2014 by S.I. 2014/93, art. 3(k)(iv)

**Status:**

Point in time view as at 03/06/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013.